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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/462,179	03/10/2000	NICOLANGELO PEDUTO	022701-854	4762

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EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 05/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/462,179

Applicant(s)

PEDUTO ET AL.

Examiner

Marc A Patterson

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

REPEATED REJECTIONS

1. The 35 U.S.C. 102(b) rejection of Claim 1 – 3 and 11 as being anticipated by Segal et al (U.S. Patent No. 3,920,879), of record on page 2 of the previous Action, is repeated.
2. The 35 U.S.C. 103(a) rejection of Claims 4 – 9, 19 – 21 and 23 – 25 as being unpatentable over Segal et al (U.S. Patent No. 3,920,879) in view of Kerschbaumer et al (U.S. Patent No. 5,219,003), of record on page 3 of the previous Action, is repeated.
3. The 35 U.S.C. 103(a) rejection of Claim 10 as being unpatentable over Segal et al (U.S. Patent No. 3,920,879) in view of Yu et al (U.S. Patent No. 5,256,460), of record on page 4 of the previous Action, is repeated.
3. The 35 U.S.C. 103(a) rejection of Claims 12 and 14 – 18 as being unpatentable over Segal et al (U.S. Patent No. 3,920,879) in view of Kerschbaumer et al (U.S. Patent No. 5,219,003) and further in view of Princiotta et al (European Patent No. 0646627), of record on page 5 of the previous Action, is repeated.
4. The 35 U.S.C. 103(a) rejection of Claim 13 as being unpatentable over Segal et al (U.S. Patent No. 3,920,879) in view of Kerschbaumer et al (U.S. Patent No. 5,219,003) and further in view of VanBuskirk et al (U.S. Patent No. 5,357,030), of record on page 7 of the previous Action, is repeated.

5. The 35 U.S.C. 103(a) rejection of Claim 22 as being unpatentable over Segal et al (U.S. Patent No. 3,920,879) in view of Kerschbaumer et al (U.S. Patent No. 5,219,003) and further in view of Yu et al (U.S. Patent No. 5,256,460), of record on page 7 of the previous Action, is repeated.

6. The 35 U.S.C. 103(a) rejection of Claim 26 as being unpatentable over Segal et al (U.S. Patent No. 3,920,879) in view of Kitami et al (U.S. Patent No. 4,881,576), of record on page 8 of the previous Action, is repeated.

ANSWERS TO APPLICANT'S ARGUMENTS

7. Applicant's arguments regarding the 35 U.S.C. 102(b) rejection of Claim 1 – 3 and 11 as being anticipated by Segal et al (U.S. Patent No. 3,920,879), 35 U.S.C. 103(a) rejection of Claims 4 – 9, 19 – 21 and 23 – 25 as being unpatentable over Segal et al (U.S. Patent No. 3,920,879) in view of Kerschbaumer et al (U.S. Patent No. 5,219,003), 35 U.S.C. 103(a) rejection of Claim 10 as being unpatentable over Segal et al (U.S. Patent No. 3,920,879) in view of Yu et al (U.S. Patent No. 5,256,460), 35 U.S.C. 103(a) rejection of Claims 12 and 14 – 18 as being unpatentable over Segal et al (U.S. Patent No. 3,920,879) in view of Kerschbaumer et al (U.S. Patent No. 5,219,003) and further in view of Princiotta et al (European Patent No. 0646627), 35 U.S.C. 103(a) rejection of Claim 13 as being unpatentable over Segal et al (U.S. Patent No. 3,920,879) in view of Kerschbaumer et al (U.S. Patent No. 5,219,003) and further in view of VanBuskirk et al (U.S. Patent No. 5,357,030), 35 U.S.C. 103(a) rejection of Claim 22 as being unpatentable over Segal et al (U.S. Patent No. 3,920,879) in view of Kerschbaumer et al

(U.S. Patent No. 5,219,003) and further in view of VanBuskirk et al (U.S. Patent No. 5,357,030), and 35 U.S.C. 103(a) rejection of Claim 26 as being unpatentable over Segal et al (U.S. Patent No. 3,920,879) in view of Kitami et al (U.S. Patent No. 4,881,576), of record in the previous Action, have been carefully considered but have not been found to be persuasive for the reasons set forth below.

Applicant argues, on page 3 of the remarks dated February 4, 2005, that Segal et al does not disclose an external layer comprising a polyamide having the claimed monomers; the list of monomers in the polyamide disclosure of Segal et al is very extensive, Applicant argues, and there is no working example having the claimed monomers, and picking and choosing is therefore required to obtain a polyamide having the claimed monomers.

However, it is not necessary to view a list of Segal et al for Segal et al to disclose the claimed invention, because Segal et al disclose caprolactam and a lactam having 12, which is at least 9, carbon atoms (column 5, lines 50 – 60) and copolymers comprising the monomers (column 6, lines 1 – 2) and therefore disclose the claimed polyamide.

Applicant also argues, on page 4, that Segal et al do not disclose the claimed weight ratio.

However, as stated above, Segal et al disclose caprolactam and a lactam having 12, which is at least 9, carbon atoms (column 5, lines 50 – 60) and copolymers comprising the monomers (column 6, lines 1 – 2), and therefore comprise copolymers having the monomers having a weight ratio of between 4 and 9 or greater than 9 or less than 4.

Applicant also argues on page 4 that absent an improper resort to Applicant's disclosure, one of ordinary skill in the art would not have been motivated to modify Segal et al by employing the claimed monomers.

However, as stated above, the claimed monomers are disclosed by Segal et al, therefore it is not necessary for one of ordinary skill in the art to be motivated to modify Segal et al to employ the claimed monomers.

Applicant also argues on page 4 that the claimed ratio can result in an improved resistance to stress cracking.

However, the statement that the claimed ratio 'can' result in improved resistance makes it unclear whether the improved resistance is imparted to the material because the material has the claimed ratio. Furthermore, as stated above, Segal et al disclose caprolactam and a lactam having 12, which is at least 9, carbon atoms (column 5, lines 50 – 60) and copolymers comprising the monomers (column 6, lines 1 – 2), and therefore comprise copolymers having the monomers having a weight ratio of between 4 and 9 or greater than 9 or less than 4.

Applicant also argues, on page 6, that the applied secondary references fail to cure the deficiency of Segal et al that it does not disclose the claimed monomers and does not disclose monomers in the claimed weight ratios.

However, as stated above, Segal et al disclose caprolactam and a lactam having 12, which is at least 9, carbon atoms (column 5, lines 50 – 60) and copolymers comprising the monomers (column 6, lines 1 – 2), and therefore comprise copolymers having the monomers having a weight ratio of between 4 and 9 or greater than 9 or less than 4.

Applicant also argues on page 6 that the rejection is improper because Segal et al is related to a nonwoven glass mat, whereas Kerschbaumer is related to a multi – layered fuel line for use in a motor vehicle.

However, as stated on page 4 of the previous Action, Segal et al is used in the making of automobile components and Kerschbaumer teaches the use of a multi – layer polyamide structure in the making of an automobile hose, for the purpose of obtaining a hose that resists delamination, and motivation therefore exists for one skilled in the art to provide for a hose in Segal et al.

Applicant also argues, on page 7, that the applied secondary references fail to cure the deficiency of Segal et al that it does not disclose the claimed monomers and does not disclose monomers in the claimed weight ratios.

However, as stated above, Segal et al disclose caprolactam and a lactam having 12, which is at least 9, carbon atoms (column 5, lines 50 – 60) and copolymers comprising the monomers (column 6, lines 1 – 2), and therefore comprise copolymers having the monomers having a weight ratio of between 4 and 9 or greater than 9 or less than 4.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497.

The examiner can normally be reached on Mon - Fri 8:30 - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marc Patterson
Marc A. Patterson, PhD.
Examiner
Art Unit 1772

Harold Pyon
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

5/11/05